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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON-SEATTLE

7 UNITED STATES OF AMERICA,)

8 Plaintiff,)

9 v.)

10 CESAR CLEMENTE,)

11 Defendant.)

No. CR21-63 RSM

DEFENDANT'S SENTENCING
MEMORANDUM

[CLERK'S ACTION REQUIRED]

12
13 **I. INTRODUCTION.**

14 Cesar Clemente, by and through his attorney, submits this Sentencing Memorandum
15 for his conviction by guilty plea to one count of Possession of Marijuana with Intent to
16 Deliver and one count of Unlawful User of Controlled Substance in Possession of a Firearm.

17 Mr. Clemente has no criminal history. His performance on pre-trial supervision over
18 the course of more than two years has been superb. He is an employer and an integral part of
19 an extended family and larger community in Seattle, who presents no risk of re-offense. Mr.
20 Clemente is someone for whom a sentence well below any Guidelines provision is
21 appropriate.
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23 The defense asks that the Court impose a sentence of six months of home detention,
24 500 hours of community service, and two years of supervised release.
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2 **II. PERSONAL HISTORY.**



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14 “If one would like to know who Cesar Clemente III is, he is a first generation-
15 born Filipino-American from the central district of Seattle. He was born from
16 first generation Filipino immigrants, who lived beautiful lives here in our
17 community. My grandfather has been living in the same house on E
18 Republican St for over 40 years. He is a good man who is loved by his
19 community. He always worked a city job and had his personal interests: cars
and traveling. As I look at my father today, I see a grand reflection of my
grandfather: A wise, peaceful man who loves his community that loves him
back. A man who speaks of putting out good energy that will return to you and
of always showing love. I hope those who know both my father and me could
say they see a reflection between us.”

20 Appendix A, Letter from Adonis Clemente about his father.

21 The letters which accompany this memorandum, and which were previously provided
22 to the Court by U.S. Probation, tell the story of Cesar Clemente III’s life. Words which are
23 not performative pleas for mercy, but instead genuine and heartfelt descriptions of a good
24 person. They are the words of his father and his children, friends, relatives, and community
25

1 leaders. Cesar Clemente's path through life has not been perfect and straight. But no matter
2 his age or his station in life, he has let kindness, empathy, and love guide the way he lives
3 within both his family and the community at large. He is a "grand reflection" of his father,
4 the extended family that raised him, and the community that supported him.

5 Growing Up in Seattle

6 Cesar Clemente III was born and raised in Seattle, attending Stevens Elementary,
7 Meany Middle School and graduating Garfield High School. Cesar comes from a tight-knit
8 family who upon arriving in the United States settled in the Capitol Hill neighborhood
9 purchasing two homes directly across the street from each other.
10

11 Cesar grew up with 5 cousins around the same age who are like siblings, as they are
12 and have always been very close. Along with his cousins were a host of aunts and uncles who
13 worked throughout the city as educators, community activists and in sports.

14 He was raised by his father – with the help of aunties and cousins and friends and
15 neighbors. "Home" for Cesar growing up was his father's residence, but also the
16 neighborhood. It was where he played sports, learned to cut hair, and developed a love of
17 music and art. It was where he formed lifelong friendships, and became a mentor to later
18 generations in the same way he had been mentored by his father and others.
19

20 Cesar graduated from Garfield High School in 1999. It was a place he made more
21 lifelong friends, and where he excelled on the basketball court. Number 3 on the end is Cesar.
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But the carefree life of a popular kid having fun playing sports with his friends came to a halt when Cesar's girlfriend got pregnant. He did not give up on school, he still graduated on time. But he felt he needed to get a job, which meant he had to quit basketball. Adulthood came crashing into his young life. But he leaned on his family and community, and worked just as hard at being a father as he did his other endeavors.

Being a Parent

Mr. Clemente became a parent the summer before his senior year of high school. Despite his romantic relationship with the other parent later ending, they have continued to co-parent for twenty-four years. His daughter, Anyone, has written to the Court about her father, and the guidance and support he has always provided. Her words are a testament to how Mr. Clemente, despite difficult circumstances, put support of his family above all else. He raised Anyone's younger brother, Naysean, as his own, despite not being the biological father.

Mr. Clemente's son, Adonis, has also written to the Court. Mr. Clemente and Adonis's mother have raised young man who is aware of his roots and sees no impediment to

1 fulfilling his own dreams. At the most crucial time in Adonis's life, as he left middle school
2 and began high school, he lived with Mr. Clemente and his partner, Maquella Morris. Adonis
3 thrived. In sports and academics he excelled, and gained admission to most of America's top
4 universities – choosing Northwestern over Stanford and others.

5
6 Mr. Clemente's path to parenthood was not planned or "traditional." But he never saw
7 it as something he would do alone. Just as his childhood was filled with "family" that
8 extended past blood relatives, so have his children benefitted from the extended community,
9 and Mr. Clemente's place in it. He provided an example of the positive results that come
10 from hard work, humility, and a willingness to draw strength from those around you, and their
11 life experiences. His children reflect that, and provide him with great pride and satisfaction
12 given the people they have become.





Entrepreneur and Community Resource

During high school, Cesar began cutting hair. As high school ended it became a profession – and he built a reputation in Seattle and beyond as a skilled barber. It is a reputation that has endured now for decades.



Mr. Clemente has always been exploring ideas for his own and other businesses. Consulting on music, fashion, and other small business ventures. Friends were clients, and clients became friends. Many of the letters to the Court describe Cesar’s support of artists and community members trying to launch businesses or artistic endeavors. Mr. Clemente continues to be involved with music and brand consulting. On the right below, talking with Mr. Clemente, is Grammy-nominated music producer and Seattle native Jake One¹. Mr. Clemente completed an album with Jake and rapper “Freeway” recently. The photo on the left is former Boston Red Sox star David Ortiz², with whom Mr. Clemente consulted on

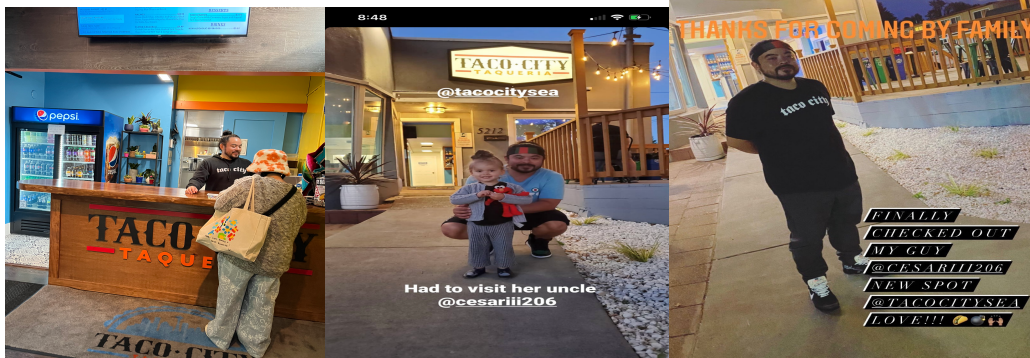
¹ https://en.wikipedia.org/wiki/Jake_One

² https://en.wikipedia.org/wiki/David_Ortiz

1 holistic medicine and a company “Big Papa” was launching in 2021.



10 Mr. Clemente, with others, started a restaurant, Taco City Taqueria. Mr. Clemente has
11 been the everyday manager and owner, taking an opportunity for “sweat equity” at the outset,
12 and turning it into a thriving minority-owned business in the Central District. Over the past
13 two years it has developed a reputation for great food, but also as a community gathering
14 place in the Central District. “Taco City provides jobs for members of the communities. Local
15 DJs can come and display their craft. Friends and family are able to gather in a vibrant place
16 that has the spirit of the old Seattle. That’s because Cesar has intentionally cultivated that sort
17 of environment.” Letter from Porter Sullivan



Mr. Clemente's approach to Taco City is consistent with other areas of his life - helping others to better his community. It has involved untold 12-16 hour days. It has also involved maintaining a belief that regardless of what happened in this case, the business and its impact on the community were worthy of his efforts.

Noteworthy

Mr. Clemente's father mentions in his letter a remarkable event in Cesar's past. The morning of March 25, 2006, a horrific mass shooting unfolded across from his father's home. <https://www.seattlepi.com/local/article/Seven-dead-in-Seattle-shooting-1199444.php>. Cesar was at the home, and ran outside to assist a shooting victim, before police had arrived. It is another example of Mr. Clemente putting the welfare of others ahead of his own.

Relationship with His Mother

As was noted in the U.S. Probation report, Mr. Clemente has had a complicated relationship with his mother. She left the family when he was very young, and lived in the Philippines and Oregon as he grew up. For the last year and a half she has been living with

1 Cesar, who helps take care of her as she is in poor health. Despite their strained past, Mr.
2 Clemente cares deeply for his mother and will continue to have her in his home as long as he
3 is still there. She is back in the Philippines on an extended visit, and her future home will be
4 sorted out after the sentencing in this case. The hope is she will be able to live with Cesar
5 again.

6 **III. THE OFFENSE CONDUCT**

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8 Mr. Clemente has been convicted for possessing marijuana with the intent to deliver it,
9 and for being addicted to a controlled substance – in this instance marijuana – while
10 possessing a firearm.

11 Mr. Clemente has now been sober and not used marijuana since he was arrested in this
12 case back in April of 2021. Prior to that, marijuana was a central part of his life, and
13 something that he had used recreationally, but also for its medicinal properties and benefits.
14 He was the owner and operator of a medical marijuana dispensary called Cesar's Salad which
15 was a successful endeavor, for a time. It is impossible to understand the evidence in this case,
16 without understanding Mr. Clemente's legitimate involvement with marijuana under
17 Washington State law.

18 Marijuana was a part of Mr. Clemente's life since he was a teenager. It provided him
19 relief from anxiety and depression, but was also a very social drug in the music and artistic
20 communities where he thrived. It later became something that offered friends and
21 acquaintances relief from physical pain or other varying ailments. Cesar was also able to
22 create a business that allowed him to provide marijuana to medical patients.
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1 Cesar's Salad was a labor of love. It was a safe access point for medical patients, and
2 one of few minority-owned dispensaries. Cesar became an expert and activist for the medical
3 marijuana community. But it eventually Cesar's Salad became an albatross.

4 As medical marijuana dispensaries began closing in the face of the legalization of
5 marijuana in Washington, many found their place in the emerging legal market. Cesar
6 continued operating Cesar's Salad as a medical dispensary, but the business was doomed to
7 failure in the post I-502 legal cannabis world. Cesar made plans, met with attorneys and
8 pursued a processing license with a business partner, trying to find a foothold in the
9 recreational marijuana "boom." But he, like many minority businesspeople, ended up left
10 behind. [https://www.king5.com/article/news/community/facing-race/washington-cannabis-](https://www.king5.com/article/news/community/facing-race/washington-cannabis-program-shut-out-black-business-owners/281-319c9559-1733-4556-b702-87f2a48c34d8)
11 [program-shut-out-black-business-owners/281-319c9559-1733-4556-b702-87f2a48c34d8.](https://www.king5.com/article/news/community/facing-race/washington-cannabis-program-shut-out-black-business-owners/281-319c9559-1733-4556-b702-87f2a48c34d8)
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13 In the wake of Cesar's Salad closing in 2016, Mr. Clemente became a consultant for
14 recreational marijuana companies and medical marijuana patients and providers. That role
15 continued both formally and informally, and left him operating in a place that did not fit
16 within Washington's recreational statute, nor did it track the requirements of medical
17 marijuana regulations. He operated in a gray area that many in the industry do. But he was
18 not trafficking marijuana as an illicit business.

19 The evidence seized on April 7, 2021, from Mr. Clemente's house consisted of three
20 different classes of cannabis: (1) the leftovers from Cesar's Salad inventory; (2) mostly CBD
21 plants intended for use by medical marijuana patients (3) personal use. Mr. Clemente was not
22 supplying anyone with marijuana as part of a criminal enterprise, though his conduct violated
23 federal and state law, and the marijuana was certainly destined for delivery.
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1 In 2021, Mr. Clemente’s friends and business associates who were growers and
2 providers of medical marijuana still served patients and still had to process what they grew.
3 The process of removing the “buds” and trimming away the excess is labor intensive, and is
4 not something there is any real way to accomplish legally in Washington. Mr. Clemente
5 served as a connection between the growers and trimmers – both sides connections from the
6 days of Cesar’s Salad.

7 The trimmers were medical marijuana patients, and the growers were providers. What
8 was in Mr. Clemente’s home on 2021 was primarily CBD dominant cannabis – the type
9 favored by medical patients because of its low levels of THC and higher levels of CBD, with
10 its pain relieving properties. Cannabidiol, or “CBD”, is the “lesser-known child of the
11 cannabis sativa plant; its more famous sibling, tetrahydrocannabinol (THC) is the active
12 ingredient in pot that catapults users’ “high.” Harvested marijuana was brought to Mr.
13 Clemente, and he farmed work out to trimmers. The trimmers brought back the separated
14 buds and leaves – which is the cannabis found in Mr. Clemente’s garage.
15

16 This information was provided by Mr. Clemente in a meeting with investigators in
17 2021, subsequent to being charged. It was also described during presentence report interview
18 with U.S. Probation.

19 While Mr. Clemente engaged in conduct that subjected him to federal criminal
20 prosecution, the truth remains that he was not a part of any criminal conspiracy, he was not
21 selling marijuana for profit, and he was trying, and failing, to convert his expertise on
22 cannabis to a lucrative pursuit in the recreational market.
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1 **IV. THE GOVERNMENT and PROBATION RECOMMENDATIONS**

2 Both U.S. Probation and the Government recommend a sentence of 24 months
3 imprisonment. That sentence is too punitive, and undermines, rather than supports, the
4 appropriate purposes of a sentence.

5 Neither the Government nor U.S. Probation dispute that Mr. Clemente had no prior
6 history before this case, and that he has performed very well on pretrial release. Both seem to
7 agree Mr. Clemente plays an important role in the lives of his family and community, and that
8 his business provides jobs and economic support to his employees.

9 U.S. Probation notes that “Mr. Clemente’s personal history to include his challenging
10 upbringing, his family responsibilities, his lack of criminal history, and his performance on
11 pretrial supervision are mitigating factors for the Court’s consideration.” They are
12 sufficiently mitigating to undermine the efficacy of a prison term.

13 There are instances where prison time is not needed to accomplish the goals of
14 sentencing, and this is just such a case. The sentence requested by the defense provides
15 deterrence and punishment, but without the catastrophic impact of years of imprisonment. It
16 does not leave to “hope” the survival of a minority-owned business in Taco City, and it allows
17 an individual who has a positive impact on the community to remain in that community.
18

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20 **V. BASIS FOR REQUESTED SENTENCE**

21 Mr. Clemente plays an important role in the life of his partner, children, his
22 employees, and his community. Imprisonment would take him away from all of those. With
23 nothing in return. There are reasonable sentencing alternatives available to the Court which
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1 will enforce the purposes of criminal sentencing, while imposing a sentence that is “sufficient,
2 but not greater than necessary.” 18 U.S.C. § 3553(a).

3 Cesar Clemente is a good person. That was known to many before this case, and he
4 has continued to demonstrate it while this case is pending. He has been that good person all
5 his life. His blind spot was marijuana and, to a different extent, the medical marijuana
6 community. The former he allowed to become something he was abusing, and the latter
7 placed him outside the highly regulated context of legalized recreational cannabis.

8 This case pushed Mr. Clemente to find healthy outlets for his anxiety and depression,
9 and away from marijuana abuse and dependency. He committed himself to be more healthy,
10 and lost 40 pounds. In abstaining, he discovered that he did not need marijuana, and that his
11 relationship with it had become unhealthy.

12 This prosecution and conviction are enough to deter others from the conduct Mr.
13 Clemente engaged in. The embarrassment and shame for someone who has helped mentor
14 and guide his children and those of his friends and relatives has been sufficient to deter Mr.
15 Clemente individually – and his performance of pretrial supervision shows that to be true.
16 Not a single urinalysis showed consumption of marijuana or any other substance over the
17 course of more than two years. No arrests (before or after this case). Not only employment,
18 but building a community asset through hard work and creativity – while your own future is
19 in doubt.
20

21 Mr. Clemente does not need drug treatment in a custodial setting – he has been clean
22 for over two years. He does not need vocational training – he has been working since he was
23 a teenager and currently owns and operates a successful restaurant. There is no need to
24 “protect society from further crimes” as demonstrated by his performance on pretrial
25

1 supervision. A sentence that combines a period of home detention, community service, and
2 supervised release will accomplish more, for the community and Mr. Clemente, than
3 imprisonment.

4 **VI. CONCLUSION**

5 The defendant respectfully requests that the Court impose the following sentence:

6 6 months of home detention
7 500 hours of community service
8 2 years of Supervised Release.

9 DATED this 1st day of June, 2023.

10
11 Respectfully submitted,
12 s/Jeffrey L. Kradel
13 WSBA No. 26767
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16 Seattle WA 98107
17 206/397-3102 voice
18 206/922-5547 facsimile
19 jeff@kradeldefense.com

20 CERTIFICATE OF SERVICE

21 I hereby certify that on June 1, 2023, I electronically filed the foregoing with the Clerk
22 of the Court using the CM/ECF system which will send notification of such filing to the
23 following:

24 AUSA Erin Becker

25 /s Jeffrey Kradel